



The City of West University Place

A Neighborhood City

ZONING BOARD OF ADJUSTMENT
MUNICIPAL BUILDING
3800 UNIVERSITY BOULEVARD
REGULAR MEETING MINUTES
June 23, 2016
6:30 pm

I.	MEMBERS PRESENT:	Sandy Hellums-Gomez (voting), Ed Sobash (voting), Edward Nikonowicz (voting), Chris Heard (voting) and Dave Miller (voting)
II.	MEMBERS ABSENT:	Janet Parisi, Donald Yurewicz and Neil Martin
III.	STAFF PRESENT:	Alan Petrov, Legal Counsel; Debbie Scarcella, City Planner and Josie M. Hayes, Administrative Coordinator
IV.	CALL TO ORDER:	6:34 pm.

Agenda Item

Discussion

Action

1	Call the meeting to order. Notices, Rules, Etc.	Sandy Hellums-Gomez called the meeting to order at 6:34 p.m. Sandy Hellums asked each member to briefly introduce themselves and state if they are voting or nonvoting. Debbie Scarcella, City Planner, stated that all notices were posted in accordance with state and local requirements. Sandy Hellums-Gomez then described the hearing procedures. Swearing in of witnesses. Sandy Hellums-Gomez suggested that the agenda be reordered and Docket 2016-08 be heard before Docket 2015-05.	Ed Sobash moved to accept that all notices were properly posted and distributed for this meeting. Second by Dave Miller. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried. Sandy Hellums-Gomez administered the oath to all witnesses. Edward Nikonowicz moved to reorder the agenda and hear Docket 2016-08 before Docket 2016-05. Second by Dave Miller. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.
2	Docket No. 2016-05, Property at "0" Ruskin, West University Place, Texas 77005 (Appeal). a. Public hearing	Before the docket was called, the chair announced that there had been several written requests by interested parties to seek designation as an interested party to	Motion to designate John Tainer as a party to the application due to the proximity of his residence to the property involved in the matter by Dave Miller. Second by Sandy Hellums-





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<p>regarding a request for a variance.</p> <p>b. Deliberation, decisions, other action, etc. regarding the preceding matters.</p>	<p>the application. These individuals were:</p> <p>John Tainer, Katherina Schlacher, Reid Wilson, David Cole and Amar Patel. Each interested party was given the opportunity to state his/her reasons for designation as a party to the application and after a vote, each was so designated.</p> <p>The applicant in Docket 2016-05 is appealing the determination of the Administrative Official that loading and unloading of company owned vehicles for inventory and restocking supplies is allowed in the residentially zoned parking area adjacent to the ATT facility.</p> <p><u>Background</u></p> <p>The AT&T site is an L-shaped property located at the corner of Bellaire Boulevard and Academy Street and extending to the corner of Academy and Ruskin Streets (see attached decision for location view). A portion of the site is zoned Light Commercial (C), another portion Single Family (Detached) Third District (SF-3), and the remainder Planned Development District Single Family Second (PDD SF-2). The property was developed initially on the south portion in 1940 with subsequent additions, including a major one in 1956 that extended the building almost the entire length of the lot fronting on Bellaire Blvd. In 1970 and 1975, the City Council enacted rezoning ordinances for six adjacent rear lots along Ruskin for parking of company owned and employee owned vehicles. The use of the structures on the site have basically remained as a switching station for telephone service, but has also housed multiple company related activities throughout the years. At times there have been a large number of occupants and at other times a small number of occupants.</p>	<p>Gomez. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.</p> <p>Motion to designate Katharina Schlacher as a party to the application due to the proximity of her residence to the property involved in the matter by Dave Miller. Seconded by Ed Sobash. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.</p> <p>Motion to designate Reid Wilson, representative of the owner of the AT&T property as a party to the application by Dave Miller. Second by Sandy Hellums-Gomez. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.</p> <p>Motion to designate David Cole as a party to the application due to proximity of his residence to the property involved in the matter by Dave Miller. Second by Sandy Hellums-Gomez. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.</p> <p>Motion to designate Amar Patel as a party to the application due to proximity of his residence to the property involved in the matter by Dave Miller. Second by Sandy Hellums-Gomez. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.</p> <p>Motion to close the evidentiary portion of the hearing and enter all testimony and evidence into the record by Dave Miller. Second by Ed Sobash. Motion carried.</p> <p>After deliberation, Dave Miller made a motion to reverse the administrative official's determination under consideration. Second by Chris Heard.</p>
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	<p>Recently the activity levels increased and concerns were expressed that the business activities occurring on site did not comply with the ordinance restrictions on the use of the rear lots for parking.</p> <p>Staff researched and wrote a decision on November 9, 2015 regarding the activities taking place on the site. The decision stated that the activity related to the dumpster/recycle storage bins and the access for delivery vehicles were not allowed on those lots zoned for parking and located within the SF-3 and PDD SF-2 districts. Those activities that are categorized as Medium Commercial such as vehicle maintenance or auto intensive uses are also not allowed. ATT appealed the decision and additionally asked for a special exception and/or a variance to continue the use of the dumpster and access for delivery vehicles through the parking area. The ZBA affirmed the AO decision dated November 9, 2015 and denied the special exception and variance requests. Subsequently there was a request for an AO decision specifically targeting the activities related to loading/unloading and inventory of company service vehicles in the parking area. A third request for the ZBA to reconsider the decisions made regarding the business activities at the site was filed and heard on May 26, 2016. The ZBA determined there was not enough evidence to warrant a rehearing or reconsideration of the docket. The only outstanding issue is whether or not loading/unloading and inventory of the allowed service vehicles is an allowed use of the building site.</p> <p>Robert Grossman, applicant spoke to the board regarding the use of the property for commercial activities that he feels are prohibited by the ordinances enacted in</p>	<p>Ayes: Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Noes: Sandy Hellums-Gomez. Motion carried 4-1.</p>
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1970 and 1975. These ordinances allowed for the property to be developed as a parking area for the parking of vehicles owned by ATT (then Southwestern Bell) and their employees. Mr. Grossman believes that the loading and unloading of supplies for stocking and inventory expands the commercial uses of the adjoining commercially zoned property into the residentially zoned property where the parking is located. Mr. Grossman cited many instances of unsecured trash and garbage, beeping and honking of backup sensors and horns during the morning and night time hours, maintenance of vehicles on the site, and multiple instances of delivery vehicles blocking the street. He is also concerned about the number of vehicles and the frequency of trips.

Mr. John Tainer then spoke regarding the safety of the neighborhood as it related to the number of large vehicles and trucks coming in and out to make deliveries to the business. He also spoke about the garbage trucks picking up the refuse.

Katherina Schelacher spoke regarding the number of trips being made on what she sees to be a primarily residential street.

Reid Wilson spoke on behalf of the property owner stating that the activity had been ongoing in one form or another for many years. He answered questions from the board members regarding the operations of the company.

David Cole presented some trash he had picked up on his property from the ATT site, presented pictures of large vehicles on the site and spoke about the increase activity over the past few years.

Amar Patel spoke about the safety concerns





and the disconnect he noticed in the HCAD records and the actual operations of the business.

In addition to the parties requesting designated party status, staff received correspondence against the administrative official's determination from William Arteaga and Boris Markason. No correspondence in favor of the administrative official's decision was received.

Boris Markason and Brennan Reilly spoke against the Administrative Official's Determination.

Staff Response

The applicant is appealing the decision of the Administrative Official that loading/unloading for restocking and inventory of service vehicles in the parking area is an allowed use. The applicant is asking that the decision be reversed. As the decision states, the ordinance enacted in 1970 and continued in 1975 has wording that differentiates allowed uses when the property is being used as parking, than when the property is not being used as parking. Since the original ordinance was enacted to rezone the property as parking that is specifically tied to the business, allowed activities must directly relate to the SWBT (ATT) business. All employee and company vehicles, including service vehicles at that time, were authorized to park on the site. Normal daily activities, including restocking and inventory of the vehicles, could take place as accessory or incidental uses to the zoning designation of "parking". Similar activity by ATT takes place in the ATT vehicles today.

Each of the parties was given the





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		<p>opportunity to rebut any information brought up during the discussion, or to add to the information given so far.</p> <p>The ZBA has the authority to affirm, reverse or modify the decision. When there is an appeal, the board assumes the responsibility for interpretation of the ordinances from the Administrative Official. There are no findings that guide the board in determining the outcome of an appeal.</p>	
3	<p>Docket No. 2016-08, Property at 2621 University, West University Place, Texas 77005 (Special Exception)</p> <p>a. Public hearing regarding a request for an special exception.</p> <p>b. Deliberation, decisions, other action, etc. regarding the preceding matters.</p>	<p>The applicant, Kim Cleary and her representative, Marissa Nering gave a presentation regarding the request. The applicant is asking for a special exception to grant PNC status for a garage side setback in order to obtain a permit for remodeling. The applicant is trying to correct some structural issues with the existing garage and while doing that, wants to raise the roof and ceiling to create more headroom. This will expand the nonconformity of the garage and cause more encroachment into the side yard setback.</p> <p>There was no correspondence received in favor of or against the request and there were no speakers in favor of or against the request.</p> <p><u>Background Information</u></p> <p>The applicant owns the property located at 2621 University Blvd. The property contains a detached two story garage with partial habitable space above the garage. While looking into doing some upgrades to portions of the garage (garage doors, stairway and screened porch), it was discovered that the existing garage encroached into the side yard setback and was only one foot away from the property line. This creates a non-conforming garage since the zoning regulations have always required a setback of at least three feet for structures. When a structure has nonconforming status, a permit may not be</p>	<p>Edward Nikonowicz moved to close the evidentiary portion of the hearing. Second by Dave Miller. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.</p> <p>After deliberations Ed Sobash moved to approve the special exception for PNC status for a side setback of a garage. Second by Chris Heard. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, and Chris Heard. Noes: Dave Miller. Motion carried 4-1.</p>





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		<p>issued for improvement or expansion.</p> <p><u>Staff Response</u></p> <p>Section 12-102 (e) of the zoning regulations allow that a structure that is in violation of the setback regulation may acquire Prior Nonconforming (PNC) status if the ZBA issues a special exception granting PNC status. The applicant must demonstrate that: (1) the encroachment was inadvertent and neither misrepresented to the City nor hidden from City officials. Exception: This finding is not required if the encroachment commenced before 1970. (2) The encroachment will not cause a substantial adverse effect on other persons, and (3) the encroachment does not create a significant health or safety risk. The house and garage were constructed in 1929 and the garage has not been added on to or renovated since then. Only maintenance has been done in the ensuing years according to permit records. Acquiring PNC status would allow permits to improve and slightly alter the structure as long as the nonconformity is not increased.</p> <p>The ZBA must additionally determine that the proposed special exception will not cause any significant increase in on-street parking, will not cause any substantial traffic congestion, will not cause any substantial increase in traffic or an unreasonable burden upon utility systems or upon any other public facility or public service and will be in harmony with the general purpose and intent of this section. Conditions may be placed upon the special exception.</p>	
4	Meeting Minutes.	Approval of meeting minutes of May 26, 2016.	Approval of minutes deferred until the next meeting.
	Adjournment.	The meeting was adjourned at 12:41 pm.	Dave Miller moved to adjourn the meeting. Second by Ed Nikonowicz. Ayes: Sandy Hellums-Gomez, Ed Sobash, Edward Nikonowicz, Chris Heard and Dave Miller. Motion carried.





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APPROVED THIS 28th DAY OF July 2016.

Ed Sobash, Vice-Chairman

ATTEST:

Debbie Scarcella, City Planner

